

STATE OF HAWAII
 REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

TO: Chief Procurement Officer

 FROM: HEALTH / ADULT MENTAL HEALTH DIVISION / HAWAII STATE HOSPITAL
 (Department/Division/Agency)

Pursuant to § 103D-102(b)(5), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

Description of goods, services, or construction:

To install and expand a SimplexGrinnell Security Escort Duress System into the Taro Lo'i/Nursery area at Hawaii State Hospital due to expanding patient programming areas. The system shall be compatible with existing SimplexGrinnell installed system and have the capability to provide the following services:

1. Personal Safety Tracking
2. Access Control Integration
3. Alarm Management
4. Dynamic Graphics Map
5. Graphical Map Integration
6. Closed Circuit TV Integration
7. Closed Circuit TV Alarm Interface
8. Management Reports
9. Fire Watch Alarm Integration

 Name of Vendor: SimplexGrinnell
 Address: 99-1379 Koaha Place
 Aiea, HI 96701

 Cost:
 \$88,810.00

 Term of Contract: From: ~~04/01/04~~ To: 05/30/04
 upon CPO may 09 approval

Prior Exemption Ref. No. (if applicable)

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

See the attached description and accompanying letter from Paul M. AuCoin, Esq.

Details of the process or procedure to be followed in selecting the vendor to ensure maximum fair and open competition as practicable:

See attached description.

A description of the agency's internal controls approval requirements for the exempted procurement:

The hospital obtained price quotations for the attached equipment listing from SimplexGrinnell the previous vendor who installed the first two phases of the Security Management System. The technical staff at the hospital evaluated the listing and has determined it to be appropriate. This same technical staff will monitor the installation and follow it very closely to assure the integrity of the system is maintained without jeopardizing patient and staff safety and security. Once the installation is completed and signed off by the technical staff as being satisfactorily installed. Paperwork will be submitted through the Business Office and reviewed by Administration. Prior to any final payment being made the system will be verified and certified to function as an integrated system with all components, equipments, software, and hardware functioning as per manufacturers specifications.

A list of agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Paul A. Guggenheim, Administrator
William T. Elliott, Associate Administrator
Elnora Guieb, Business Manager
Mary San Nicolas, Telecommunications Unit Chief
Robin Denton, Plant Operations Manager

Direct questions to:

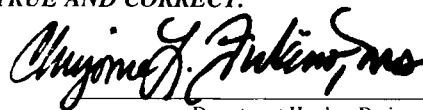
William T. Elliott

Phone Number:

236-8232

This exemption should be considered for list of exemptions attached to Chapter 3-120, HAR: Yes ☐ No ☒

**I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS, TO THE BEST OF MY KNOWLEDGE,
TRUE AND CORRECT.**



Department Head or Designee

JUN - 7 2004

Date

Title (If other than Department Head)

Chief Procurement Officer's Comments:


This exemption is for the solicitation process only, Chapter 103D-310 shall apply

Please ensure adherence to applicable administrative requirements.



APPROVED

☐ DISAPPROVED



Chief Procurement Officer

6/14/04

Date

cc: Administrator,
State Procurement Office

AUCOIN DUPONT HETTERSCHIEDT & YOUNKIN LLC

Attorneys at Law

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WWW.ADHYLAW.COM

June 7, 2004

Via Facsimile

Paul Guggenheim
Administrator, Hawaii State Hospital
Kaneohe, Hawaii

RE: Simplex Security System
U.S. v. Hawaii

Dear Mr. Guggenheim:

The purpose of this letter is to advise you of the need to proceed immediately and without overdue haste in the completion of the third and final phase of the HSH Plan to Improve it's Security Management System.

As you know, the State of Hawaii has made repeated and continuous representations regarding the completion date of the security system, and we simply cannot delay the installation of the third phase any longer. The deadline for completing various provisions of the multitude of Court Orders relating to the hospital, including our own representations relative to the physical security of staff and patients was February 2004. The Court and the Department of Justice have courteously extended that deadline until September 30, 2004, but I do not expect any additional extensions.

While I respect and support the State of Hawaii's procurement system, and in fact fought diligently to keep it intact during the litigation (unlike the Felix litigation), this is one time that we must seek an exemption from the normal bidding process in order to wrap up this litigation in a timely fashion. This case is literally costing the State of Hawaii tens of thousands of dollars on a monthly basis, and we must do whatever we can to end U.S. District Court supervision as soon as we can.

RE No 04-53-n

Paul Guggenheim

June 7, 2004

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Paul, we simply must complete the security system with the original bidder. I have very serious concerns associated with considering any unknown bidder who may have to "bypass" proprietary software in order to even attempt to complete the process. It is simply a bad idea to take a risk with a new system that is not fully integrated with the system we are now using.

Finally, I would like to add that it is my understanding that there is a unique funding problem; to wit, if we are unable to encumber the budgeted funds by June 30, we will lose the ability to complete the process for an indefinite period of time. This could be a disaster of monumentally expensive proportions, especially if we complete all the other terms of the various compliance plans by September 30, 2004 as expected.

Please give the matter your immediate attention, and direct my concerns to appropriate state personnel.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul M. AuCoin", with a long horizontal line extending to the right.

Paul M. AuCoin
Special Deputy To The Attorney General
AuCoin, DuPont, Hetterscheidt and Younkin LLC
495 South High Street, Suite 250
Columbus, Ohio 43215

PMA:ajw

PE No 04-53-

Procurement of the described goods and services by competitive means is neither practicable nor advantageous to the State due to the urgent need to complete phase 3 of the Hawaii State Hospital (HSH) plan to improve its security management system pursuant to the several orders entered against the State and HSH in United States of America v. State of Hawaii, CV. NO. 91-00137DAE/KSC.

In 1991, the State of Hawaii entered into a Settlement Agreement with the United States Department of Justice to improve conditions at Hawaii State Hospital (HSH). Primary among the several mandates of the original Settlement Agreement, as well as the current Remedial Plan is the focus on patient and staff safety at the hospital, and the overall security of the facilities. The federal master, monitor and evaluators expect HSH to foster a "culture of safety" at the hospital. The current Remedial Plan, made an order of the U.S. District Court for the District of Hawaii on February 21, 2002, requires that HSH "[c]onduct a review and make recommendations regarding the adequacy of the physical environment of the units and identify the most secure unit. Thereafter, develop and implement *a plan to address the safety and security needs of the patients* and the best use of the identified most secure unit." Remedial Plan at page 47 (emphasis added). The original deadline for complete performance of all aspects of the Remedial Plan was February 21, 2004. The federal court extended the final performance date to September 30, 2004. HSH expects that the court will grant no further continuances.

In addition to addressing the improvements required by the federal litigation, HSH is defending health and safety grievances filed by the Hawaii Government Employees Association (HGEA) on behalf of its membership employed at HSH.

The safety/security plan required by the federal order includes the full development and integration of HSH's existing (1) fire life safety system, (2) duress system (automated alarm for staff in trouble) and (3) security system (locked gates and doors with automated access) (collectively referred to as "security management system").

When security and safety improvements began in the early 1990s, HSH contracted with SimplexGrinnell, as it had installed the extant system. HSH's current plan for the security management system calls for improvements in three phases; two of which have been completed. SimplexGrinnell was awarded the contracts for phases 1 and 2, as well as the contract to maintain the system, and is prepared to provide the services and equipment necessary to complete phase 3. HSH administration has briefed the federal monitor and evaluators, as well as HGEA union representatives on its three-phase plan, and the status of its compliance with the plan. All parties involved expect HSH to proceed with phase 3 at this time, as FY2004 funding is available only until June 30, 2004.

Phase 3 of the development of the security management system involves the integration of all aspects of previously installed stand-alone features, including an upgrade to the Simplex brand access control system *iSecure Pro*. As might be expected in a multi-phased project involving computer hardware and software, certain aspects of the system installed in phases 1 and 2 are proprietary to SimplexGrinnell. The phase 3 upgrade to *iSecure Pro* involves access to proprietary software.

One local competitor has indicated to the State Procurement Office that it can provide the listed equipment. The issue, of course, is access to the SimplexGrinnell operating system. Initially, in a vaguely worded memorandum sent to the SPO via electronic mail, the competitor indicated it had access. HSH had its doubts about that assertion, due to information from SimplexGrinnell that it is the only authorized distributor of the currently installed equipment. When HSH asked the competitor to specify in writing the nature of the access, the competitor responded that it would need to install a new head-end or front-end computer in order to interface and control already installed equipment. HSH does not seek to obtain new hardware and software to run its security management system at this time, and anticipates that if the competitor actually bid on phase 3, it would need to include significant costs to cover the alternate hardware and software.

The installation of new or replacement equipment in phase 3 would compromise severely HSH's ability to hold accountable a single vendor. In addition, HSH expects that its current warranties from SimplexGrinnell would be placed in jeopardy by introduction of new parts to the existing system. As the State's only publicly funded psychiatric hospital, responsible for the safety and security of patients, who, on account of their mental illnesses pose dangers to themselves, staff members, and the public at large, HSH cannot afford "finger-pointing" responses from multiple vendors when the hospital encounters a problem with the security management system. In such circumstances, HSH needs an immediate response and resolution to the problem, not an argument about which vendor should fix the problem.

For all of the reasons explained in this submission, HSH requests that the SPO conclude that procurement of phase 3 of the improvement of the security management system by competitive means is neither practicable nor advantageous to the State. HSH submits with this application, a copy of correspondence from Paul M. AuCoin, special deputy attorney general and lead counsel for the State in the federal litigation, to HSH Administrator Paul A. Guggenheim, elaborating on the importance of the exemption so that HSH may continue to work with SimplexGrinnell at this crucial juncture in the litigation. Mr. AuCoin is available by telephone to further discuss this matter.

STATE OF HAWAII

NOTICE OF EXEMPTION FROM CHAPTER 103D, HRS

The Chief Procurement Officer is in the process of reviewing the request from the Department of Health/Adult Mental Health Division/Hawaii State Hospital for exemption from Chapter 103D, HRS, for the following goods, services or construction:

To install and expand a SimplexGrinnell Security Escort Duress System into the Taro Lo'i/Nursery area at Hawaii State Hospital due to expanding patient programming areas. The system shall be compatible with existing SimplexGrinnell installed system and have the capability to provide the following services:

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Vendor: SimplexGrinnell

Address: 99-1379 Koaha Place
Aiea, HI 96701

Term of Contract:	From: 04/01/04 upon CPO approval	To: 06/30/04 May 09	Cost: \$88,810.00
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Direct any inquiries to:

Department:	Health/Adult Mental Health Division/Hawaii State Hospital	Phone Number:	236-8232
Contact Name/Title:	William T. Elliott, Associate Administrator	Fax Number:	247-2191
Address:	45-710 Keaahala Road Kaneohe, HI 96744		

Date Posted: June 7, 2004

A copy of this notice of exemption from Chapter 103D, HRS, shall be posted by the Chief Procurement Officer and the purchasing agency in an area accessible to the public, at least seven (7) calendar days prior to any approval action.

Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven (7) calendar days from the date posted to:

Office/Agency:	Chief Procurement Officer
Address:	DAGS, State Procurement Office
	P.O. BOX 119
	Honolulu, HI 96810